



# **HAZARDOUS WASTE CONTINGENCY FUND**

## **Annual Report**

**Fiscal Year 2007: July 1, 2006 through June 30, 2007**



**Division of Site Assessment & Remediation  
Bureau of Land & Waste Management**

# Table of Contents

I.	Introduction .....	1
II.	Hazardous Waste Contingency Fund and the State Superfund Program.....	3
	A. Brief History of Hazardous Waste Contingency Fund and the State Superfund Program.....	3
	B. Hazardous Waste Contingency Fund Uses.....	4
	1. State-Lead Response Actions.....	4
	Appendices A, B & C	
	2. Emergency Response .....	6
	Appendix D	
	3. Administrative Costs/Salaries .....	6
	4. Criminal Investigations .....	6
	5. National Priorities List Sites .....	6
	Appendix E	
	C. Hazardous Waste Contingency Fund—Uncontrolled Sites Fund Status & Financial Sheets ....	7
	1. Fund Status.....	7
	2. Financial Sheets.....	8
	Fund Balance.....	9
	Obligations for Planned Work, Purchase Orders, RODs, etc.....	10
III.	Additional Funding Sources Addressing South Carolina Sites .....	11
	A. Site Specific Brownfields Assessment Sites .....	11
	B. Brownfields Grant Recipient.....	11
	C. Federal Superfund Trust Fund.....	11
	Appendix E	
	D. Federal Facilities on Site Assessment Projects List .....	12
	Appendix F	

## Additional Appendices Provided for Assistance

○ List of Standard Acronyms .....	Appendix G
○ Glossary of Terms .....	Appendix H

**RESPONSE ACTIONS UNDER  
THE HAZARDOUS WASTE CONTINGENCY FUND  
(THE STATE SUPERFUND PROGRAM)**

***Introduction***

This Annual Report is submitted to the South Carolina General Assembly as required by S.C. Code Ann. Section 44-56-180(b) of the South Carolina Hazardous Waste Management Act (HWMA). The HWMA mandates the South Carolina Department of Health & Environmental Control (DHEC or the Department) to annually report on the activities and response actions that have been carried out under the auspices of the Hazardous Waste Contingency Fund (HWCF or State Superfund). The State Superfund Program further publishes this report to provide outreach and education to a wide variety of audiences.

This report highlights some of the many accomplishments of DHEC's State Superfund Program during Fiscal Year 2007 (FY07). The State Superfund Program's purpose is to protect public health and the environment by requiring investigation and cleanup of some of the state's worst uncontrolled hazardous waste sites and by taking short-term actions to mitigate immediate threats to human health and the environment. DHEC continues to focus its staff attention and financial resources on the sites that pose the greatest risk to human health.

During FY07, staff conducted and oversaw various types of response actions at over **200** uncontrolled or abandoned sites, including removal actions and emergency response actions to address immediate threats, remedial actions to address long-term threats, Brownfields (sites where expansion, reuse, or redevelopment is complicated by real or perceived environmental contamination), and criminal investigations. While some of these sites are being addressed by potentially responsible parties (PRPs) or non-responsible parties (NRPs), many response actions as well as DHEC's oversight activities are funded totally or partially by the Hazardous Waste Contingency Fund (HWCF). In FY07, DHEC expended in excess of \$2.7 million for site-specific cleanup activities funded by the HWCF. Of this amount, over \$1.1 million was spent conducting a time-critical removal of thousands of intermediate bulk containers (chemical totes) at the Horton Sales Development Corporation Site in Piedmont. This action is expected to be completed in FY08 at a total cost of \$3.5 to 4 million. The HWCF also continued to fund several other ongoing projects such as the groundwater cleanup at the Suffolk Chemical Site in Lexington County, the remedial investigation/feasibility study at the Philip Services Site in Rock Hill, and a groundwater treatment pilot study at the Stoller Site in Charleston County. The HWCF also funded several emergency response actions and supported several criminal investigations, which resulted in convictions for illegal waste disposal as well as reimbursement of the Department's environmental response costs.

In addition to performing investigation and cleanup activities, the Department also continued to pursue recovery of its past response costs. Judicial settlements were reached with several parties for past response costs and future cleanup activities at the US Finishing Site (also known as Cone Mills or American Fast Print Site) in Greenville. The Department also entered into numerous other consent agreements and contracts with private parties to pay for or perform response actions with Departmental oversight.

While we recognize these successes, we remain concerned about our ability to quickly and efficiently address the many threats to public health and the environment that are posed by uncontrolled waste sites in South Carolina. To date, more than 1000 sites have been identified as being known or potentially contaminated. DHEC consistently attempts to direct private parties to assess and/or cleanup contamination where appropriate. Nonetheless, each site represents a potential liability to the HWCF if the responsible party(ies) is unknown, unwilling or unable to conduct the necessary activities. In light of that and prior fund expenditures to date, the known number of contaminated sites represents a potential liability to the HWCF in excess of \$60 million. Staff typically work on more than 100 sites per year, but work is not always continuous and most sites require several years of attention before they are ready for reuse as residential or commercial properties. As in the past, DHEC will continue to focus its limited staff and financial resources on addressing the problems that pose the greatest risk to human health.

We hope that this report provides the reader with an idea of the magnitude of work that has already been performed on uncontrolled sites as well as an understanding of the challenges that lie ahead in addressing the hundreds of other sites in our inventory.

## ***THE STATE SUPERFUND PROGRAM***

### ***Hazardous Waste Contingency Fund – Uncontrolled Sites Fund***

#### **A. Brief History of the Hazardous Waste Contingency Fund and the State Superfund Program**

South Carolina's Hazardous Waste Contingency Fund was created in 1980 when the General Assembly amended the South Carolina Hazardous Waste Management Act (HWMA) to impose a fee of \$1.50 per ton on the disposal of hazardous waste at the former GSX Services landfill facility (later operated by Laidlaw and Safety-Kleen) at Pinewood. Through the years, various amendments to the HWMA modified the fee structure to include non-hazardous wastes and to increase the per ton rates on waste disposal.

Historically, the HWCF has been managed as two separate funds: the Permitted Sites Fund which ensures the availability of funds for response actions at permitted waste landfills, and the Uncontrolled Sites Fund which is used to defray the costs of governmental response actions at uncontrolled hazardous waste sites and from accidents in the transportation of hazardous materials.

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or federal Superfund law) to identify and manage the nation's worst abandoned and uncontrolled hazardous waste sites. In the early 1980s, the South Carolina General Assembly amended the HWMA and authorized DHEC to implement and enforce CERCLA. The HWMA was also amended to specifically incorporate the liability provisions of Section 107 of CERCLA, which created a liability scheme that encourages responsible parties to perform cleanups and provided a mechanism for recovering costs from recalcitrant parties.

These amendments to the HWMA along with the creation of the Uncontrolled Sites Fund (or State Superfund) marked the birth of the State Superfund Program, which works to protect human health and the environment from risks posed by abandoned and uncontrolled waste sites that do not qualify for federal assistance. The primary uses of the State Superfund are to oversee the cleanup of contaminated sites, to cleanup those sites where other funds are not available, and to conduct emergency response activities. The Fund is also used to conduct criminal investigations, to support the Voluntary Cleanup Program, to provide the State's cost share (10% match) for federal dollars spent on remedial actions at Federal Superfund Sites, and to conduct the Waste Minimization and Reduction Program. The following paragraphs provide a brief discussion of the major uses of the HWCF. More detail is provided in Appendices A through E.

## **B. Hazardous Waste Contingency Fund Uses**

### **1. State-Lead Response Actions**

The primary purpose of the HWCF is to provide funds for contractual services to perform state-funded investigation and cleanup activities at sites where other funds are not available. The State Superfund Program evaluates and sets priorities for sites in order to address the worst cases first. In FY06 and FY07, DHEC staff developed a new process for "tiering" sites (i.e., assigning a priority based on available information) to help ensure that the worst sites are addressed first. Unless the Department deems an imminent threat exists or a criminal investigation is necessary, state-funded response actions are generally taken only after the Department initiates the appropriate administrative procedures to secure alternative funding. Considerable time and effort is expended to ensure that all available funds from the responsible parties and other sources are utilized before drawing on funds from the HWCF. As a result, legal issues frequently add to the complexity of cleanups. The Department attempts to negotiate settlements with responsible and non-responsible parties to avoid expenditures from the HWCF and to avoid time-consuming and expensive litigation often associated with convincing non-cooperative parties to respond. These actions enable the Department to administer the State Superfund in a cost-effective manner and to maintain compliance with the state and federal law.

There has been considerable progress in the State Superfund Program's efforts to address uncontrolled hazardous waste sites in spite of the complex process involved in resolving problems that have taken decades to develop. For example, many sites have been abandoned by bankrupt firms or are the product of "midnight" dumping and thus, the contamination remains unknown and undiscovered for years. This situation provides the multiple challenges of identifying the materials involved, the persons responsible, defining the true extent of the problem and its associated risk, and notifying the community of findings and keeping them informed and involved in the cleanup efforts. Even though information on the chemicals used at a facility is often available, information on wastes may not be, and identifying the source and nature of the contamination is often very difficult. Considerable resources must be invested to properly sample and analyze materials, which are likely to be volatile, reactive, explosive, corrosive, and/or toxic.

During FY07, the State Superfund Program initiated a state-funded time-critical removal action to address the imminent threats posed by several thousand chemical totes at a Piedmont cleaning and recycling facility (Horton Sales Development Corporation) that had been ordered by the Department's Bureau of Water to cease operations, other than the proper management, inspection, and maintenance of totes storing waste (Administrative Order number 06-056-W). Some of these totes were leaking and many of them contained hazardous substances and were stacked haphazardly about the property. DHEC spent in excess of \$1.2 million on this site during FY07 and we anticipate spending approximately \$3.5 to 4 million to complete the removal action. Appendix A includes summaries briefly describing some of the many state-lead and voluntary cleanup sites at which the Department managed or oversaw response activities during FY07. Additional information on the processes for addressing contaminated sites is included in Appendix B.

## 2. Emergency Response

DHEC's Emergency Response Program responds to accidental spills and other problems associated with the transportation of hazardous materials as well as other incidents where hazardous materials are spilled, illegally dumped, or otherwise abandoned on public property. The Emergency Response Program administers the Emergency Response Contract, which is used to secure, sample, and properly dispose of wastes. These activities are funded by the Uncontrolled Sites Fund of the HWCF.

During FY07, DHEC expended approximately \$73,178.49 responding to 18 incidents where state contractors and HWCF money were used. The 18 incidents are a subset of the total number of incidents where Emergency Response Program responded. The Emergency Response Program seeks reimbursement of its expenditures from responsible parties and/or the National Pollution Funds Center, as appropriate. All reimbursements are returned to the HWCF.

Appendix D lists emergency response actions where DHEC utilized state contractors and spent HWCF money during FY07 and includes a brief description of each response.

## 3. Administrative Costs/Salaries

The HWCF also provides funding for a portion of the direct and indirect costs of running the State Superfund Program. These costs include, but are not limited to, salaries and fringe benefits, equipment, and agency administrative assessments. The HWCF typically funds approximately 12 FTEs (full-time equivalent positions) that perform site prioritization activities, technical reviews and field oversight, cost recovery activities, public participation activities, and other administrative activities in the State Superfund Program. During FY07, the HWCF provided approximately \$678,000 for salaries and fringe benefits, agency administrative assessments, and other non-site-specific costs. These costs are included in DHEC's cost recovery efforts against potentially responsible parties.

## 4. Criminal Investigations

The State Superfund Program also assists DHEC's Office of Criminal Investigations in providing technical assistance and contractual services for gathering evidence for environmental crime cases. During FY07, DHEC expended approximately \$92,198.22 from the HWCF for criminal investigation activities at five (5) sites. DHEC uses its Superfund cost recovery authority to attempt to recover any costs that are not recovered through the criminal investigation process. These matters are considered enforcement confidential until the criminal investigations are completed.

## 5. National Priorities List Sites (NPL or Federal Superfund Sites)

The NPL is a list of sites that the United States Environmental Protection Agency (EPA) has identified for investigation and potential long-term remediation under the authority of the Federal Superfund Program. There are currently 40 NPL sites in South Carolina, three sites that have been deleted from the NPL, 12 sites that are being addressed as "NPL-equivalent" sites and 4 removal sites to be considered as "NPL-equivalent" sites. DHEC staff provides technical and administrative assistance to